

## PATENT COOPERATION TREATY

REC'D 01 DEC 2004

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## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 02792pc/ma	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).	
International Application No.  PCT/AU2003/000942	International Filing Date (day/month/year) 24 July 2003	Priority Date (day/month/year)  24 July 2002
International Patent Classification (IPC) or national classification and IPC  Int. Cl. <sup>7</sup> E01F 15/10		
Applicant  WAYTOGO AUSSINDO PTY LTD et al		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 3 sheets, including this cover sheet.

- ☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheet(s).

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 24 February 2004	Date of completion of the report 12 November 2004
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer  VENKAT IYER Telephone No. (02) 6283 2144

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/AU2003/000942

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

- ☒ the international application as originally filed.
- ☐ the description, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the claims, pages , as originally filed,  
pages , as amended (together with any statement) under Article 19,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the drawings, pages , as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the sequence listing part of the description:  
pages , as originally filed  
pages , filed with the demand  
pages , received on with the letter of

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims 4, 6, 7, 11	YES
	Claims 1 - 3, 5, 8 - 10, 12	NO
Inventive step (IS)	Claims	YES
	Claims 1 - 12	NO
Industrial applicability (IA)	Claims 1 - 12	YES
	Claims	NO

**2. Citations and explanations (Rule 70.7)**

The following documents represent the closest art:

D1: US 5531540 A (WASSERSTROM et al.) 2 July 1996

D2: EP 0810325 A (AUTOSTRADA DEL BRENNERO SPA) 3 December 1997

D3: DE 8706088U (RAUSCH et al.) 15 October 1987

D4: US 3981486 A (BAUMANN) 21 September 1976

D5: FR 2745310 A (EUPARC SOCIETE RESPONSABILITE LTD) 29 August 1997

D6: WO 2001/011146 A (KINABALU INVESTMENTS PTY LTD) 15 February 2001

**NOVELTY(N):**

None of the above documents discloses the combination of features of Claims 4, 6, 7 or 11.

D1 discloses a plurality of elongate barrier modules (16) connected end-to-end, each module receiving a ballast of a fluid material (GUARDIAN® barriers which can be filled with water), including at least one crash rail extending lengthwise along at least one side (54, 58) wherein the crash rail is secured to the barrier by a deformable member between the crash rail and the barrier (rail 54 is secured to 16 through members 42 or 64 as per the figures. Hence Claim 1 and the features of Claims 2, 3 and 5 are disclosed.

Independent Claim 8 and dependent claim 9 to a deformable member are also disclosed as the part 42 or 64 has a first part secured to the barrier through bolt 62, 84 and the deformable part extending from the first part and a connection means (the pipes 54, 58 may be removable connected to assembly 42 as disclosed at lines 12 - 15 of Column 8).

The features of Claim 12 to a method of installing a traffic is disclosed in D1

D4 further discloses a deformable member suitable for mounting a crash rail etc as per claims 8, 9 and 10.

**INVENTIVE STEP(IS): Claims 1-12**

Claims 1 - 3, 5, 8 - 10, 12 : as above

Claim 4 is obvious in light of D1 and any one of D2 to D6 in combination, in respect of W- shaped crash rails.

Claims 6, 7 and 11 are obvious in the light of deformable members disclosed in a combination of D1 and any of D2, D4 or D5